

Theresa McClenaghan

From: "Shawn-Patrick Stensil" <shawn.patrick.stensil@yto.greenpeace.org>
To: "Theresa McClenaghan" <mcclenaghan@execulink.com>
Sent: Sunday, January 29, 2006 6:32 PM
Subject: Important --- Fw: Nuclear energy & CEAA Exclusion List

Hi Theresa,

I forwarded your message regarding the CEAA exclusion list to Ole, who seemed to quickly grasp the significance of the CEAA amendments. These amendments seem to target getting around EAs on refurbishments - which is what the CNSC has been doing for years now, but we've tripped them up, it seems.

This really pisses me off. We have two days to get a response in. I will try putting something together but if you guys have any further 'meaty legal' input that would help immensely.

Maybe I'll try to get a short letter together before the energy vision meeting for people to send in.

Arrrg.

----- Forwarded message from Jones <ole@nrtco.net> -----

Date: Sun, 29 Jan 2006 15:22:31 -0300

From: Jones <ole@nrtco.net>

Reply-To: Jones <ole@nrtco.net>

Subject: Re: (Fwd) [Energy-vision] Fw: Nuclear energy & CEAA Exclusion List

To: shawn.patrick.stensil@mail.yto.ca.gl3

Hi Shawn-Patrick,

I've been away for a few days and I'm catching up on e-mail.

While all of this proposal to exclude various aspects of nuclear energy from CEAA is problematic, paragraphs 40 and 41 may be the worst. Paragraph 40 seems to say that, once there has been an environmental assessment of the refurbishment of one reactor at an existing facility, all future reactor refurbishment is exempt from consideration under CEAA. No need to consider any lessons learned with the initial refurbishment - full steam ahead!

Paragraph 41 would enable lawyers to argue that most new activities at existing facilities would be exempt from environmental assessment. The phrase "expansion or modification of an essential system" is extremely broad. It could, for example, be interpreted as allowing the Bruce reactors to be modified to use SEU, by my reading.

Allowing this "only" if the "project is not to be carried out within 30 m of a water body" does not provide any significant environmental protection. It

doesn't take long for a plume of tritium or Sr-90 to travel 100 feet! And, as if all we care about is water pollution, and we wouldn't care about a cloud of radioactive gas.

The second "restriction" - "does not involve the likely release of a polluting substance into a water body" also opens up possibilities for the lawyers. I went back to the Canada Gazette for the proposed definition of "polluting substance": "...likely to degrade... the water body to an extent that is detrimental to its use..." So the drafters of this proposed new exemption have introduced the qualifying term "likely" twice in one short sentence.

Nor am I happy about paragraph 39. The 1 PBq throughput limit is extremely high. This represents a tremendous amount of radiation. Past experience with introducing these kinds of "limits" in CEAA has been quite problematic. The MAPLE reactors escaped comprehensive study because each one individually had a power rating just under some magic cut-off (20 MW, maybe, I can't remember exactly). And look at the mess AECL and MDS Nordion are in now, precisely because they dodged any significant environmental assessment of that project.

Get the word out and the media on to this one!!!

Sigh...

Ole

On Wed, 25 Jan 2006 15:07:25 -0500, shawn.patrick.stensil wrote

> Ole - do you understand this?

>

> ----- Forwarded message follows -----

> From: "Theresa McClenaghan" <mcclenaghan@execulink.com>

> To: <energy-vision@list.web.net>

> Date sent: Wed, 25 Jan 2006 14:26:33 -0500

> Subject: [Energy-vision] Fw: Nuclear energy & CEAA Exclusion

> List Regulations

>

> all, below is a forwarded message about proposed additions to the

> CEAA exclusion list regulations; i.e. removal of some nuclear

> related projects from the I have not had an opportunity to analyze

> the proposal but want people to be aware of it and respond if you

> see fit. In meantime if anyone has a chance to put the proposal into

> plainer language, i.e. which projects will be excluded from CEAA

> with this proposal, we'd probably all appreciate it. Theresa Theresa

> McClenaghan, Counsel, Canadian Environmental Law Association 301-130

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> mcclenaghan@execulink.com Home office telephone 519-442-1589 Cell

> phone 519-755-7579 CELA's Library website: www.ecolawinfo.org

>

> Confidentiality Note: This message may

> be subject to solicitor - client privilege.

> If you have received this message in error,
> please let me know by reply email, and
> delete your copy. Thank you.
> ----- Original Message ----- From: Hugh Benevides
> To: Theresa at CELA ; Theresa McClenaghan
> Sent: Monday, January 23, 2006 11:51 AM
> Subject: Fw: Nuclear energy & CEAA Exclusion List Regulations
>
> Hi Theresa,
>
> I just got the message below. (I don't know Daniel Rainham.)
>
> Hugh
>
> ----- Original Message ----- From: Daniel G.C. Rainham
> To: hughb@MAGMA.CA
> Sent: Monday, January 23, 2006 11:49 AM
> Subject: FW: Nuclear energy & CEAA Exclusion List Regulations
>
> I'm sure you folks at CELA are already aware of this.
> Daniel Rainham
>
> Subject: Nuclear energy & CEAA Exclusion List Regulations
>
> Please circulate:
> OTTAWA - December 19, 2005 - The Canadian Environmental
> Assessment Agency invites the public to comment on proposed
> amendments to the Exclusion List Regulations under the Canadian
> Environmental Assessment Act.
>
> Comments received by January 31, 2006 will be considered when
> preparing the regulations for final approval.
>
> Of particular interest is the exclusion of Nuclear Energy from
> environmental assessments
> (see Part 4 below)
>
> http://www.ceaa-acee.gc.ca/013/nr051219_e.htm
>
> If you disagree with nuclear energy being excluded from CEAA's
> environmental assessment process please send dear John Smith an
> email and ask him to take Nuclear Energy off of the exclusion list.
> In 2005 \$2.3 billion of the federal government's \$9 billion surplus
> was handed to the nuclear industry.
>
> John D. Smith
> Director, Legislative and Regulatory Affairs
> 161 Elgin Street, 22nd Floor
> Ottawa ON K1A 0H3
> Tel.: (613) 948-1942
> john.smith@ceaa-acee.gc.ca

- >
- > Extract from the exclusion List.....
- > PART 4
- > NUCLEAR ENERGY
- > 37. The proposed construction, installation, operation, expansion,
- > modification, decommissioning or abandonment of
- > (a) a subcritical nuclear assembly;
- > (b) Class II prescribed equipment;
- > (c) a radiation device affixed to a nuclear facility; or
- >
- > (d) a Class II nuclear facility other than a Class II nuclear
- > facility that employs a pool-type irradiator in which the form and
- > composition of the nuclear substance within the sealed source is
- > such that the nuclear substance would be readily dispersed in air or
- > easily dissolved in water if the source encapsulation were ruptured.
- > 38. The proposed construction, installation, operation, expansion,
- > modification, decommissioning or abandonment of a physical work for
- > the processing of nuclear substances or the manufacture of sealed
- > sources, if the activity of the annual throughput of nuclear
- > substances is less than 1 PBq.
- > 39. The proposed construction, installation, operation, modification,
- > decommissioning or abandonment of monitoring, safety or security
- > equipment that is affixed or adjacent to a nuclear facility.
- > 40. The proposed modification of a nuclear facility that is the same
- > as a modification of that nuclear facility for which an
- > environmental assessment has been conducted under either the Act or
- > the Environmental Assessment Review Process Guidelines Order if, as
- > a result of the assessment,
- > (a) the modification was determined to be unlikely to cause
- > significant adverse environmental effects, taking into account the
- > implementation of mitigation measures, if any; and
- > (b) the mitigation measures and follow-up program, if any, have been
- > substantially implemented.
- >
- > 41. The proposed expansion or modification of an essential system
- > within a nuclear facility if the project
- > (a) is not to be carried out within 30 m of a water body; and
- >
- > (b) does not involve the likely release of a polluting substance
- > into a water body.
- >
- > ----- End of forwarded message -----
- > -----

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- > 250 Dundas St. W., Suite 605
- > Toronto, Ontario, Canada

> M5T 2Z5

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----- End forwarded message -----